Cross-border Derivatives Regulation

Better Markets' Summary Presentation

June 21, 2013

Coming to a **U.S.** City Near You? The Cost of the CFTC Not Getting Cross Border Right

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Essential to Protect the American People, Financial System, Economy

- Derivatives market was where the last crisis
  - Was invisibly incubated
  - Ignited the financial crisis
  - Acted as a conveyor belt to transmit the crisis throughout the globe
  - Cost trillions of dollars of losses
- That's why the CFTC was given the **statutory mandate** to regulate cross border derivatives activities

Costs to U.S. have been staggering

- Too much of financial reform discussion is antiseptic, academic, bloodless & historical
- Financial reform necessary because
  – **Worst** financial collapse since 1929
  – **Worst** economy since the Great Depression
  – Report: Going to **cost the U.S. $12.8+ trillion**
- Money, however, tells only part of the story of lives, families, communities suffering from coast to coast

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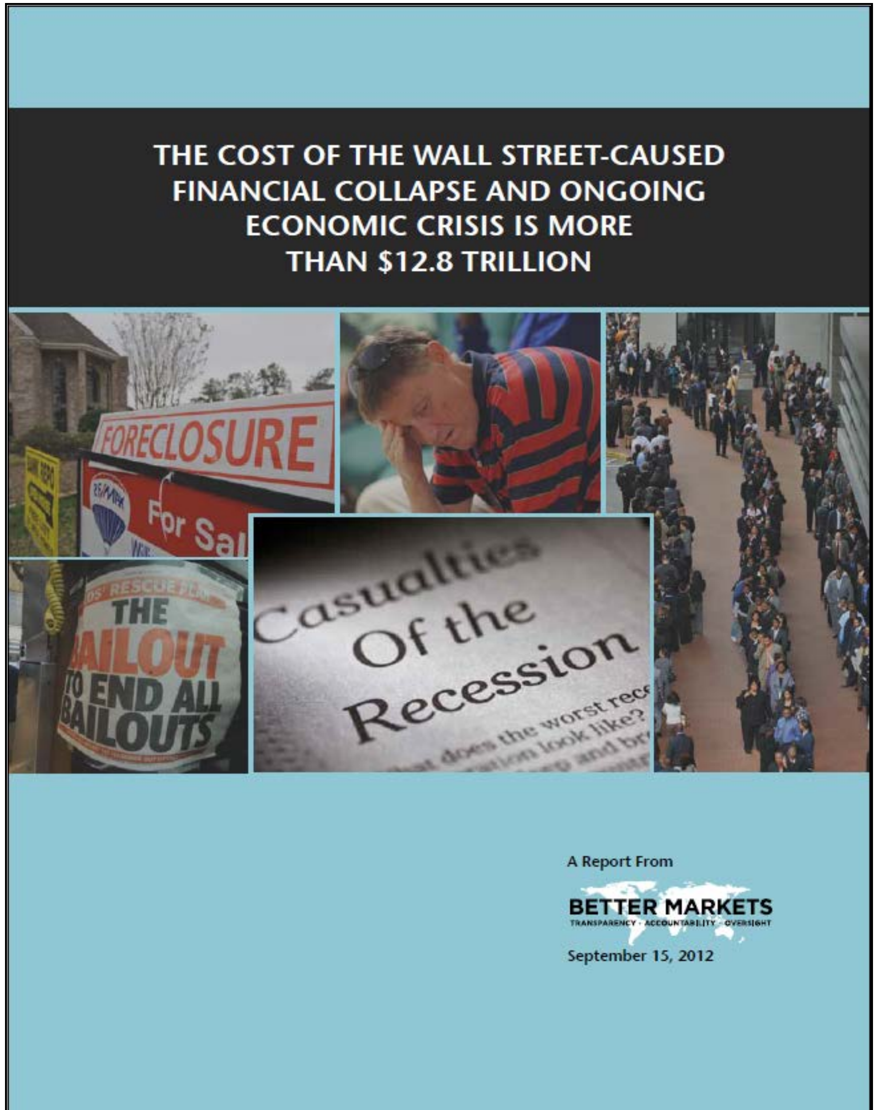
THE COST OF THE WALL STREET-CAUSED FINANCIAL COLLAPSE AND ONGOING ECONOMIC CRISIS IS MORE THAN $12.8 TRILLION

A Report From

BETTER MARKETS
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September 15, 2012

That’s not even close to all the costs

- Doesn’t include all fiscal policy costs:
  - Much of annual $1 trillion deficits due to increased expenditures and decreased tax receipts from the financial & economic crises
    - Most of discussion about budget cuts due to those costs
- Doesn’t include monetary policy & QE costs:
- Unprecedented zero interest rate policy (ZIRP) AND
- Unprecedented asset purchases resulting in a $3+ trillion Fed balance sheet
- All necessitated by the financial collapse & economic crisis it caused

<u>SEC Proposed Rule is Inapplicable to CFTC</u>

- The SEC was given statutory authority <u>limited</u> solely to anti-evasion and no mandate regarding cross border jurisdiction
- The CFTC was given the same anti-evasion authority, but <u>also</u> given an affirmative, <u>expansive</u> statutory mandate to regulate cross border derivatives activities

SEC Statute:

"(c) Rule of construction. No provision of this title [15 USCS §§ 78a et seq,] that was added by the Wall Street Transparency and Accountability Act of 2010, or any rule or regulation thereunder, **shall apply** to any person insofar as such person transacts a business in security-based swaps **without the jurisdiction of the United States, unless** such person transacts such business in contravention of such rules and regulations as the Commission may prescribe as **necessary or appropriate to prevent the evasion of any provision of this title** [15 USCS §§ 78a et seq,] that was added by the Wall Street Transparency and Accountability Act of 2010…."

Section 772(b) of the DFA

CFTC Statute:

"(i) Applicability. The provisions of this Act relating to swaps that were enacted by the Wall Street Transparency and Accountability Act of 2010 (including any rule prescribed or regulation promulgated under that Act), **shall not apply to activities outside the United States unless** those activities—

(1) have a direct and significant connection with activities in, or effect on, commerce of the United States; or

(2) contravene such rules or regulations as the Commission may prescribe or promulgate as are **necessary or appropriate to prevent the evasion of any provision of this Act** that was enacted by the Wall Street Transparency and Accountability Act of 2010."

Section 722(d) of the DFA

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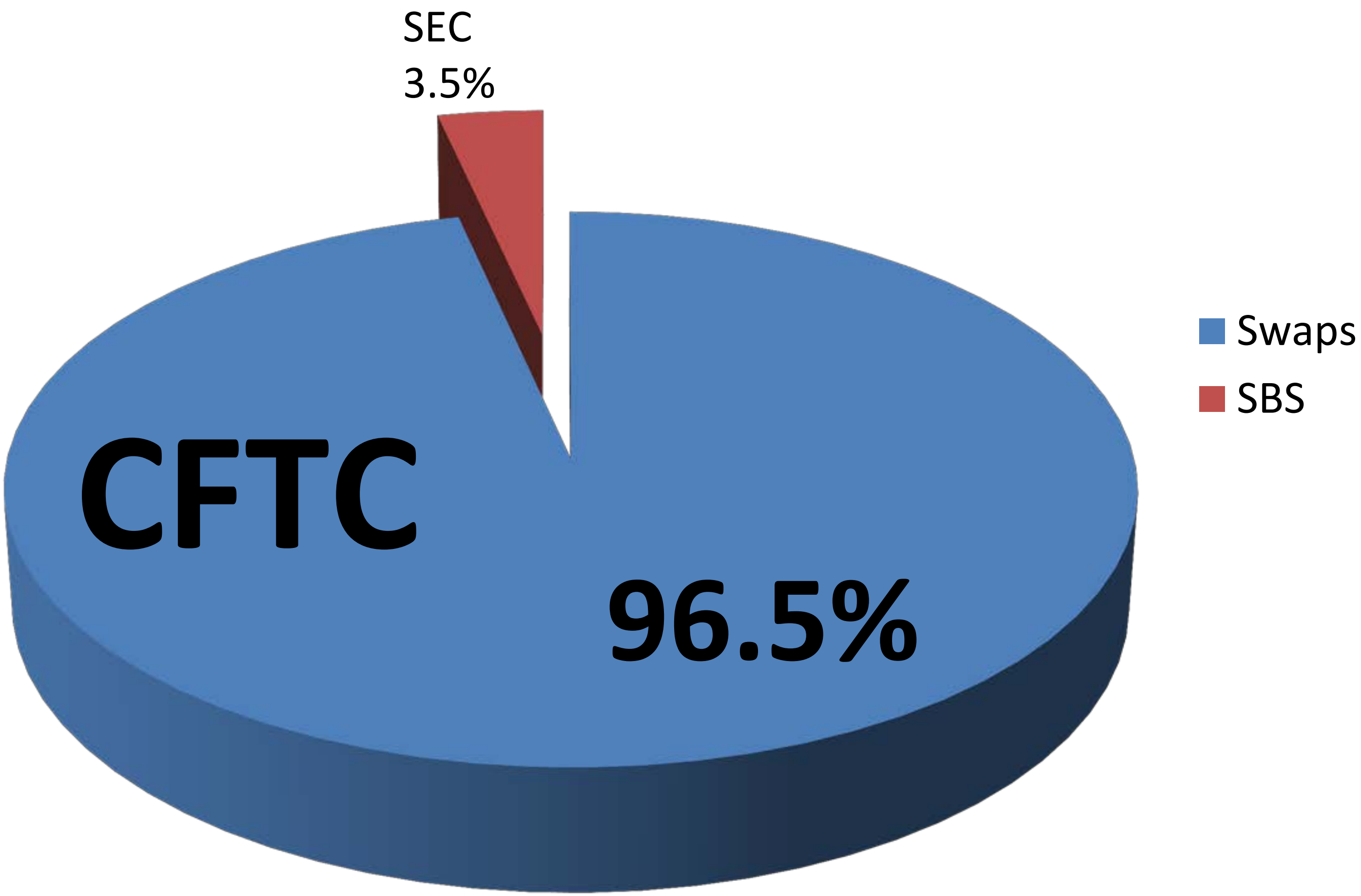
Derivatives Market Jurisdiction: CFTC 96.5%, SEC 3.5%

- Of the immense derivatives markets, the SEC has jurisdiction for only the tiny securities based swaps portion of the markets
  - This is, at most, 3.5% of the derivatives market
- The CFTC has jurisdiction for 96.5% of the derivatives market
  - Plus, the CFTC has the expertise & decades of experience with derivatives

Relative Proportions of Swaps and Security Based Swaps



Source: BIS Annual derivatives market report, 2012. Note, if either DTCC data or CFTC-reported data were used, the SEC portion of the market would be under 3%. Thus, 3.5% is the maximum.

Turning the World Upside Down

The CFTC following the SEC's views under these circumstances turns the world upside down

- It would be as if CFTC regulations were applied to 100% of mutual funds because less than 1% of mutual funds are also regulated by the CFTC as CPOs
  - Never happen
    - Shouldn't happen
    - With cross border or anything else

CFTC Should **Not** Wait for the SEC

- It would be irresponsible for CFTC to wait for the SEC
- SEC at very beginning of their regulatory process
  - Just proposed a rule on May 1, 2013
    - Not even any substantive comments yet
- CFTC has been working on cross border for
    - 2 ½ years, beginning before January 2011
    - Proposed guidance June 2012
      - » After 1 ½ years of deliberation, including huge industry input
    - After yet more consideration, further guidance in Dec. 2012
    - After even more input, latest draft circulated May 16, 2013
    - Deadline of July 12, 2013 set 7 months ago
    - Already too many delays

SEC Proposed rule is weak & will be ineffective in achieving CFTC legal mandate

- The SEC proposal will almost certainly be the starting gun for a global race to the bottom
  - Talks a lot about focusing on risk, but the rule itself focuses on the form of entities, making arbitrage relatively easy
  - Recognizes risk from guaranteed affiliates, but then excludes them
  - Takes a territorial approach, but allows substituted compliance even within the territorial United States (as to external bus conduct standards)

SEC Substituted Compliance is weak, nontransparent, fails to protect the U.S. & invites regulatory arbitrage

- SC not in DFA & of questionable legal basis
- SEC proposed rule focuses on so-called "holistic" approach to regulation and purportedly comparable "outcomes," but in only 4 overly broad categories
- SEC proposes to consider irrelevant factors not in the statute & which will put the U.S. at risk
- SEC proposes a process that lacks transparency & fails to ensure public notice or input

Federal Reserve Bank rejecting failed substituted compliance

- Pre-crisis regulation in the U.S. of foreign bank subsidiaries and branches largely left to home country regulation
- Financial crisis revealed that to be total failure
- Now, Fed proposed rule on foreign bank organizations (FBOs) requires them to form an intermediate holding company subject to Fed regulations on capital, etc.

Required harmonization already done

- Congress ensured that the scope did not go beyond U.S. interests by expressly limiting the scope of the law to only certain activities
  - Only duty to "consult & coordinate … **to the extent possible**," which has been done
- **Law clear: consult, not subordinate; then act** to reduce risk to U.S. from cross border activities as mandated by the law

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There are no conflicts with international regulators

- No conflicts b/c no one has passed comprehensive Title VII-like derivatives laws & won't for **years**
- Plus, 3 comprehensive reviews show no current conflicts:
  - CFTC General Counsel's office
  - European Commission
  - Financial industry
- CFTC cannot afford to wait years before acting simply to avoid the **possibility** of future conflicts
  - If they materialize, CFTC & foreign jurisdictions can work them out as they have with Japan re clearing

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CFTC Should **Not** Wait for Foreign Regulators, Rules or Laws

- The CFTC is years ahead of European regulators & the rest of the world
  - To wait would mean that there are **no** meaningful regulations in place protecting the US
- Finalizing cross border **now** would apply CFTC rules only where appropriate
  - Foreign dealers could apply for substituted compliance where appropriate when foreign rules come into existence

Europe is Years Behind the US

- The EMIR (regulation), which governs clearing and data reporting, was supposed to be effective by now
  - At least one CFTC Commissioner claims that this was the primary/sole reason the December 2012 exemptive order was set to expire July 12, 2013
  - However, EMIR has been delayed – again – and will not become effective until later this year or early next year
    - Assuming no more delays, which isn't guaranteed

European Title VII-like Comprehensive Derivatives Regulation is 2 to 5 Years Away

- MiFID2/MiFIR, which governs execution, trading, position limits, etc., will not be finalized for years, according to the best estimates currently available
  - EMIR + MiFID2/MiFIR = DFA Title VII-like comprehensive derivatives regulation
- Comprehensive derivatives regulation in Europe might not be in place until as late as 2018

Europe's Convoluted Process & Timeline

- Europe's process for regulations & laws makes the US look speedy, streamlined & efficient
- There are level 1 and level 2 requirements
  - Level 1 has 3 steps:
    1: the European Commission (EC)
    2: the European Parliament (EP) and European Council (Council) (acting parallel, but independently)
    3: Trialogue negotiations, votes, etc.
  - Level 2: guidance & national implementation
    - However, even once this is "finalized," there are objection periods when the Council & EP may (& do) delay the process further

EMIR: Where Europe Is & Where It Has to Go

- ESMA (European Securities & Market Authority) finished its level 2 technical requirements for EMIR in late 2012 (the equivalent of a CFTC rulemaking)
- It was then challenged by the EP, but has now been modified and approved
  - Data reporting will begin later this year
  - Clearing is supposed to begin next year (2014) and will be gradually phased in (ideally in 2014 as well)
    - However, no mandatory clearing determination by ESMA has yet been made
- Bottom line is: EMIR should be fully in effect by the end of 2014

MiFID2: Where Europe Is & Where It Has to Go

- In June 2013, MiFID2/MiFIR was approved by the Council & EP and now moves to Trialogue negotiations
  - The EP, EC & Council now begin the process of negotiating provisions for the final document
  - ESMA is starting in parallel to work on some technical standards, but will need the final text resulting from EP, EC and Council Trialogue negotiations to complete most of them, which have to then be implemented
    - That could (and almost certainly will) take years
- The EMIR trialogue (which was less controversial than the MiFID2/MiFIR trialogue will be) missed several deadlines and took longer than expected
  - It is therefore virtually certain that estimates of the timeline for finalizing MiFID2/MiFIR are too optimistic
- Bottom line: MIFID2/MiFIR will not be in effect until at least 2015 and may not be until 2018

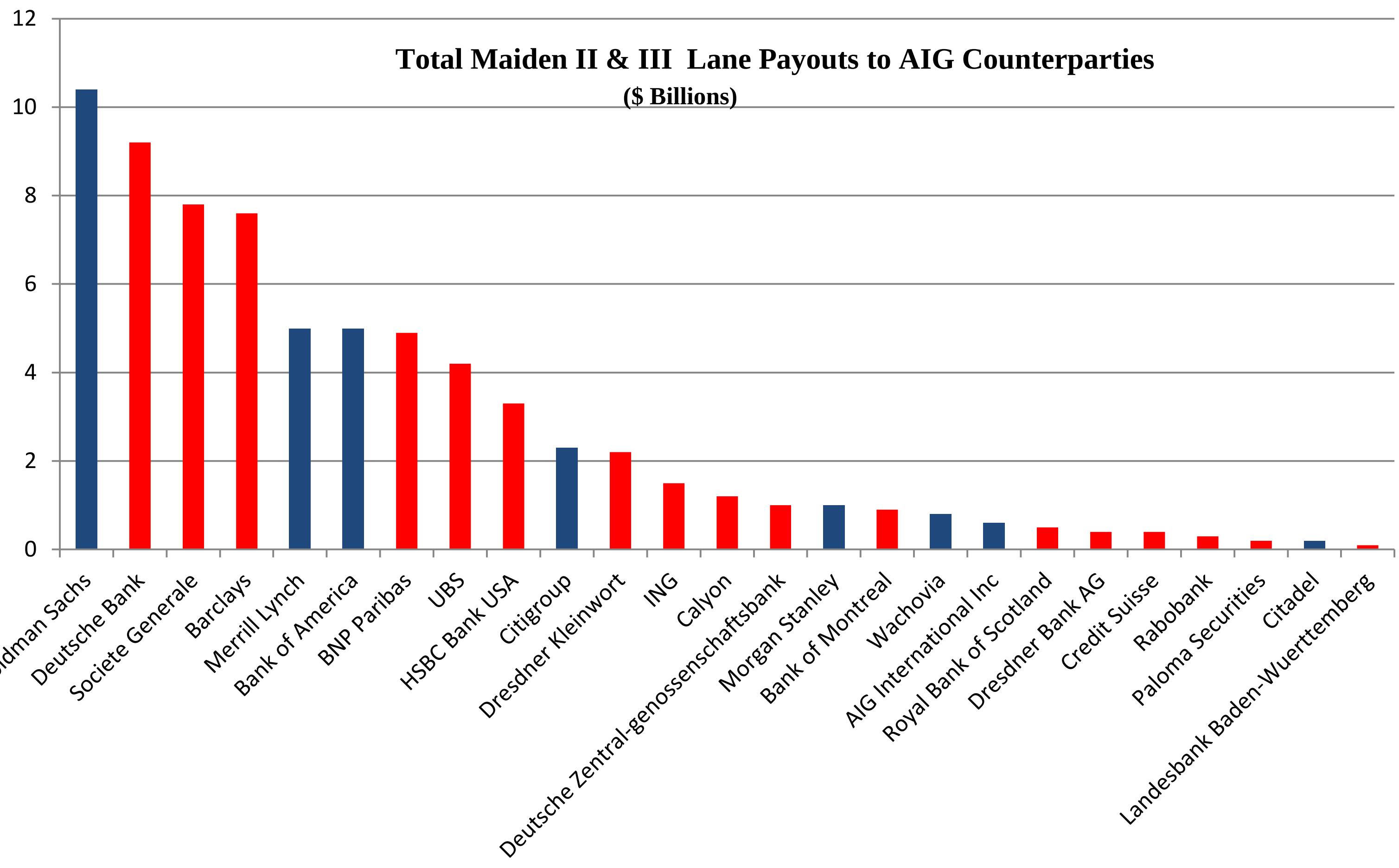
Cross Border derivatives activities have already cost the U.S. a great deal

- **Shipping jobs, businesses & revenue overseas, but risk & liabilities from foreign operations stay in/come back to the U.S.:**
  - Bear Stearns: Cayman affiliates operating in New York with swaps desk in London
  - Lehman Bros: swaps book run through London (G)*
  - AIGFP: French affiliate operating in London (G)
  - Citigroup: Cayman affiliates operating in London (G)
  - JPMorgan: “London Whale” = ‘nuf said (G)
  - LTCM: Cayman affiliates operated in London

*involved guarantees by U.S. corporate parent or U.S. affiliate

AIGFP risk came home to the U.S.

(blue U.S., red European)



Not Just AIG: Citigroup

- Citigroup sponsored several Cayman-incorporated SIVs -- essentially small banks funded with commercial paper, with no capital requirements.
- Nominally “bankruptcy remote”, but with implicit support from Citigroup.
- SIV commercial paper was widely held by MMFs.
- In late 2007 Citigroup was forced to take $59B in assets, from 7 SIVs, onto its balance sheet to avoid asset fire sales and reputational loss.
- The associated write-downs reduced the bank’s capital and began a long-term run on the bank

Not Just AIG: JPMorgan “Whale”

- **London-based JPM** Chief Investment Office made huge, high risk derivatives bets
  - Risk evaluation was manipulated and risk limits were routinely disregarded.
- **NY-based JPM** suffered losses of $6.2+ billion
  - No one in senior management, risk, legal or compliance were aware of the risks or liabilities being assumed by derivatives positions

<u>Global Dealers Are Disasters Waiting to Happen</u>

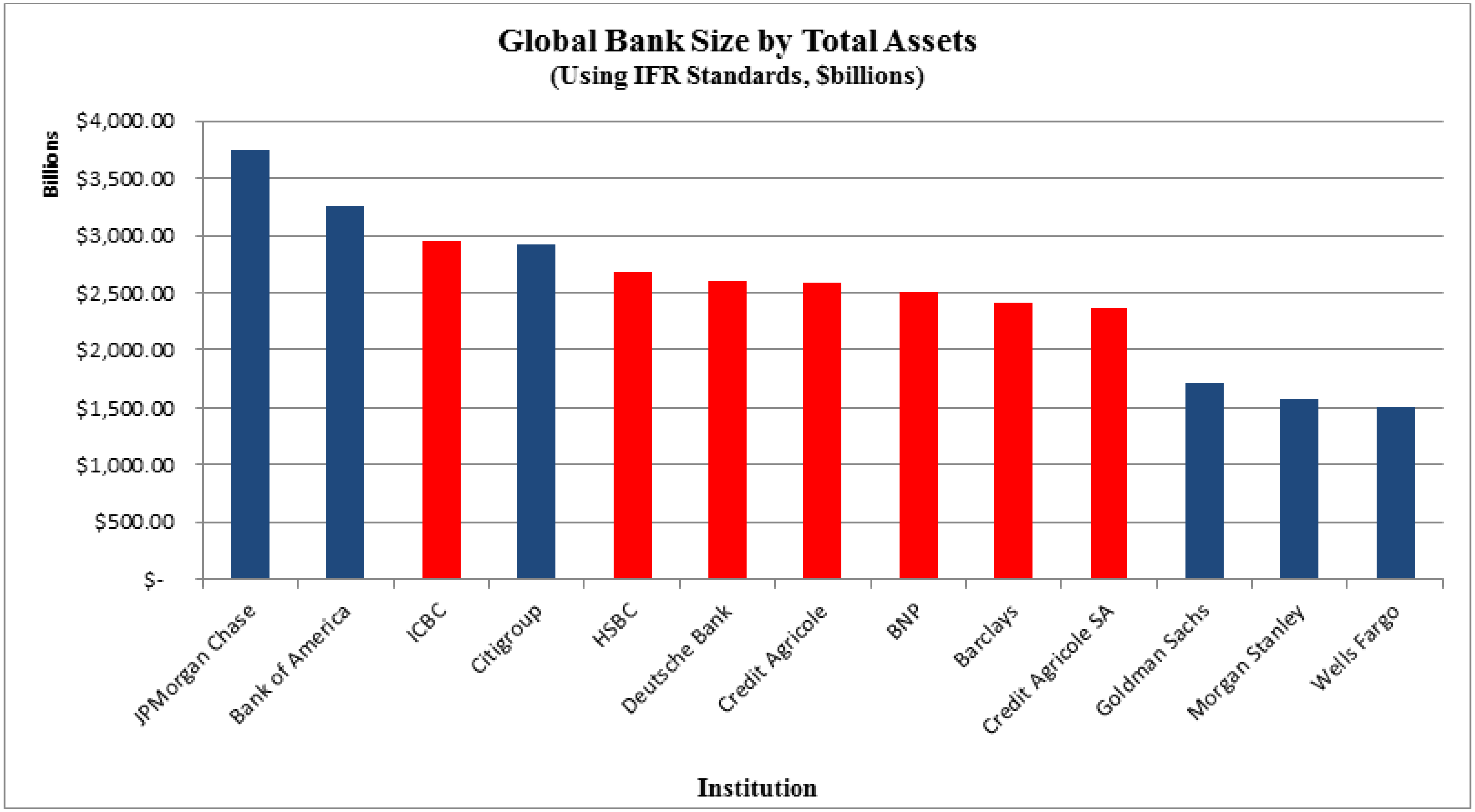
- Global dealers are so big and so sprawling, it is only a matter of time before there are more disasters that require more U.S. bailouts
  - Moreover, these global banks operate in so many parts of world, shifting business from one place to another takes but a <u>**keystroke**</u>
- <u>They are structured & staffed **by design** for regulatory arbitrage & today's virtual markets make that easy</u>
- That is why the law requires the CFTC to impose strong, effective cross border regulations

Dealer Size & Global Scope Make Cross Border Guidance Critical

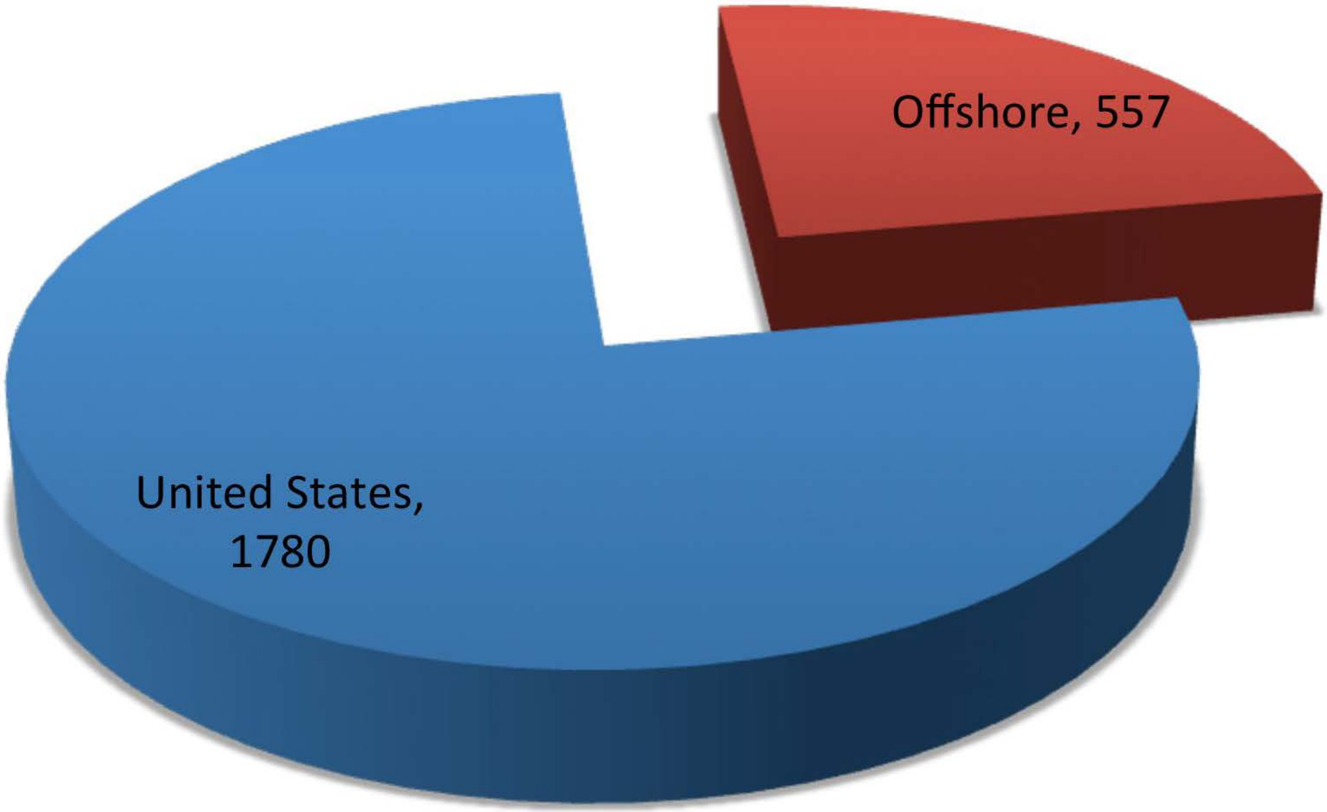
- U.S. banks' dealer activities truly global
- JPMorgan Chase: world's biggest bank
  - $2.3 trillion in assets U.S. accounting, $3.75 trillion international accounting (conservative numbers)
  - More than 250,000 employees worldwide
  - Operates in more than 60 countries
  - Has thousands of legal entities worldwide
    - Little cost, less time can have legal entities anywhere, doing almost anything

Global Bank Size By Total Assets

Largest banks in the world (blue U.S., red European)



JP Morgan Subsidiaries: Domestic* vs. Offshore



*To avoid a misleading impression, the domestic number excludes 656 subsidiaries (all JPM Plymouth Park Tax Services, LLC entities) because they appear to be shell companies that exist solely to hold delinquent property tax liens used to foreclose on homes in the U.S..

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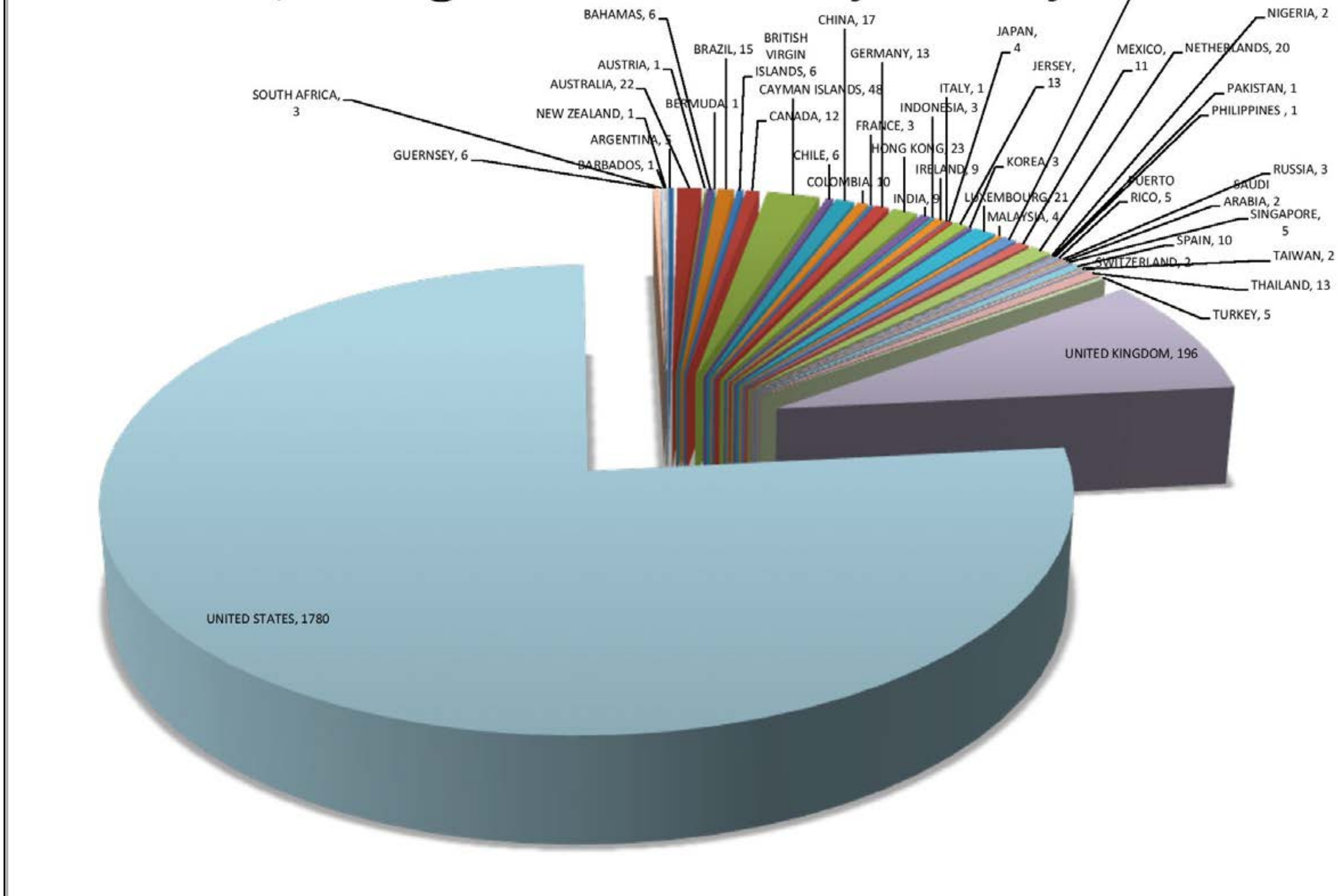
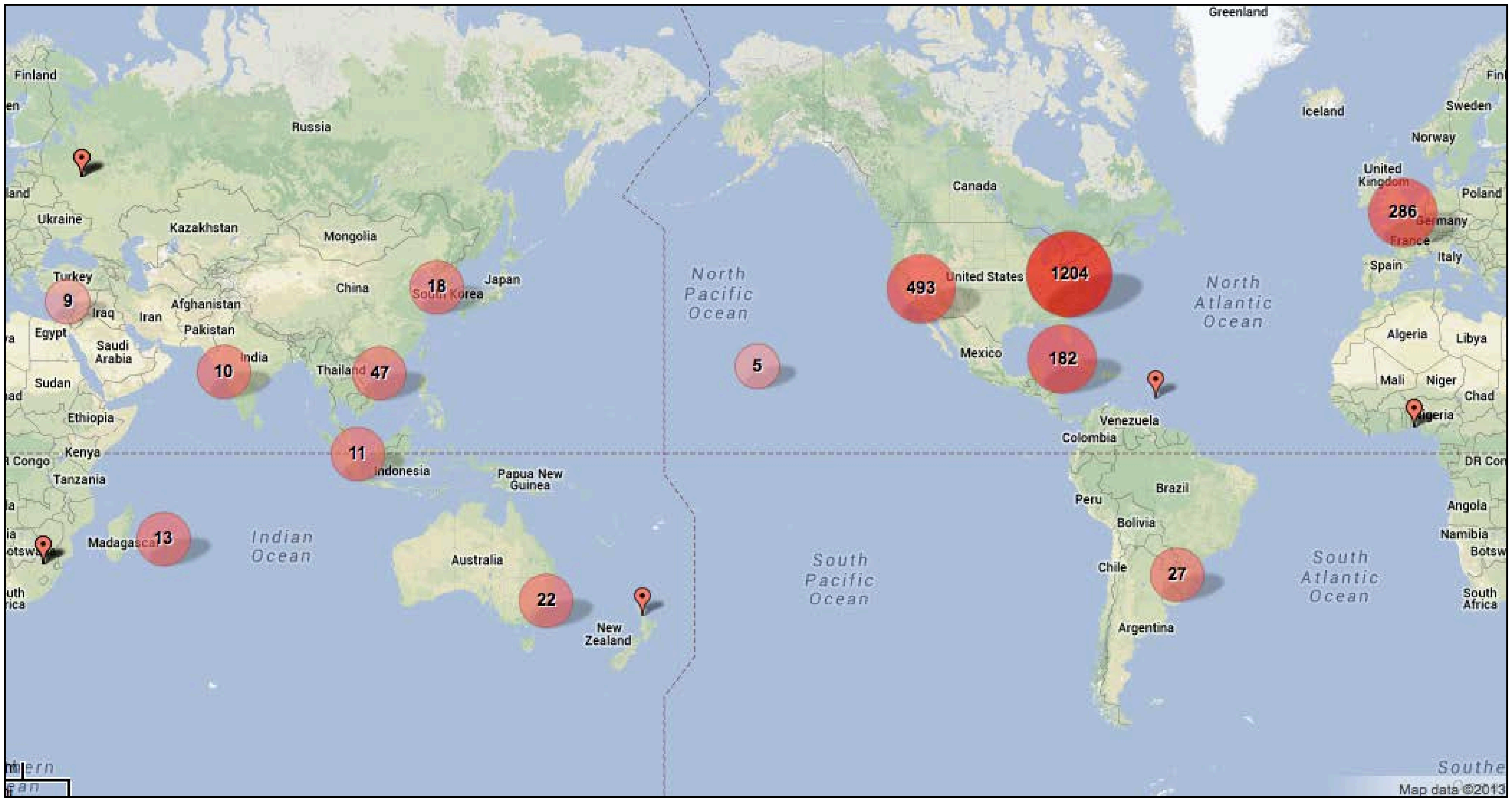
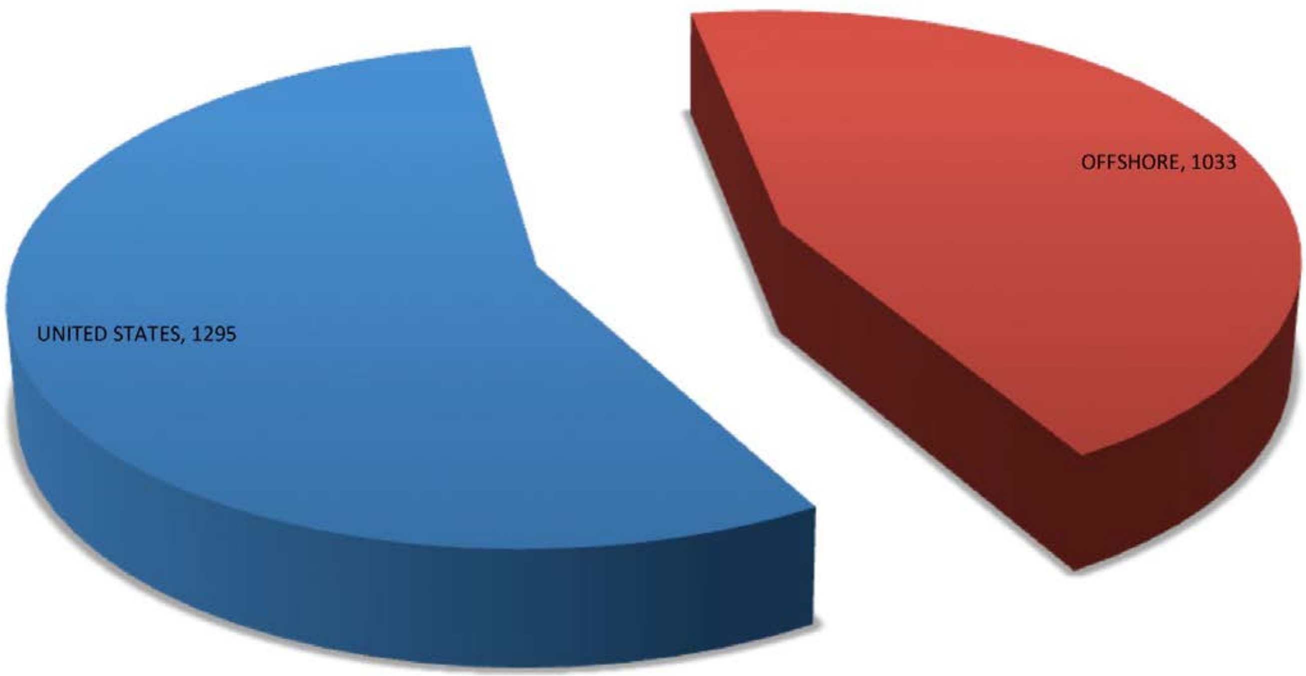
JP Morgan Subsidiaries by Country



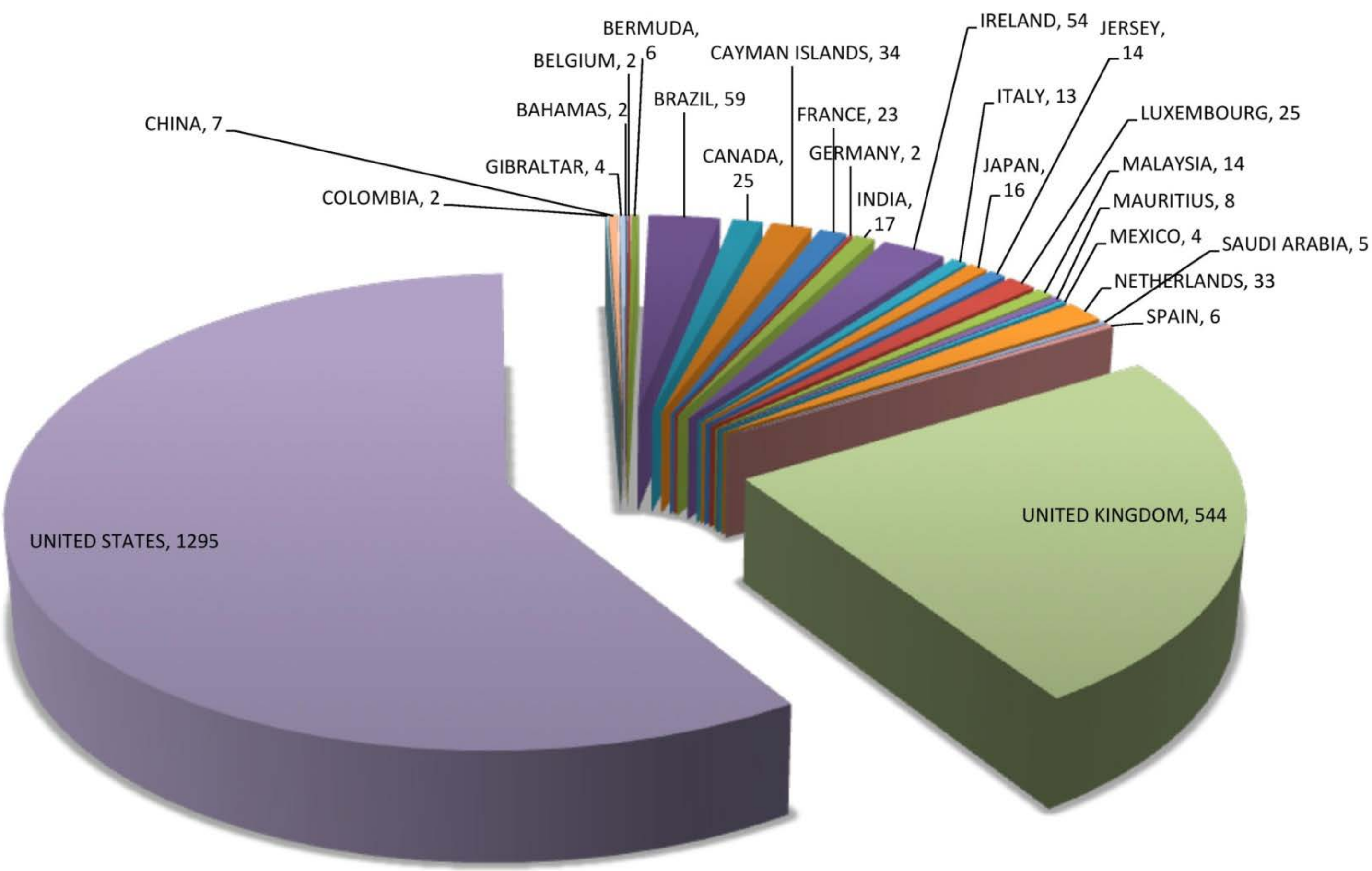
JP Morgan Global Operations



Bank of America Subsidiaries Domestic vs Offshore

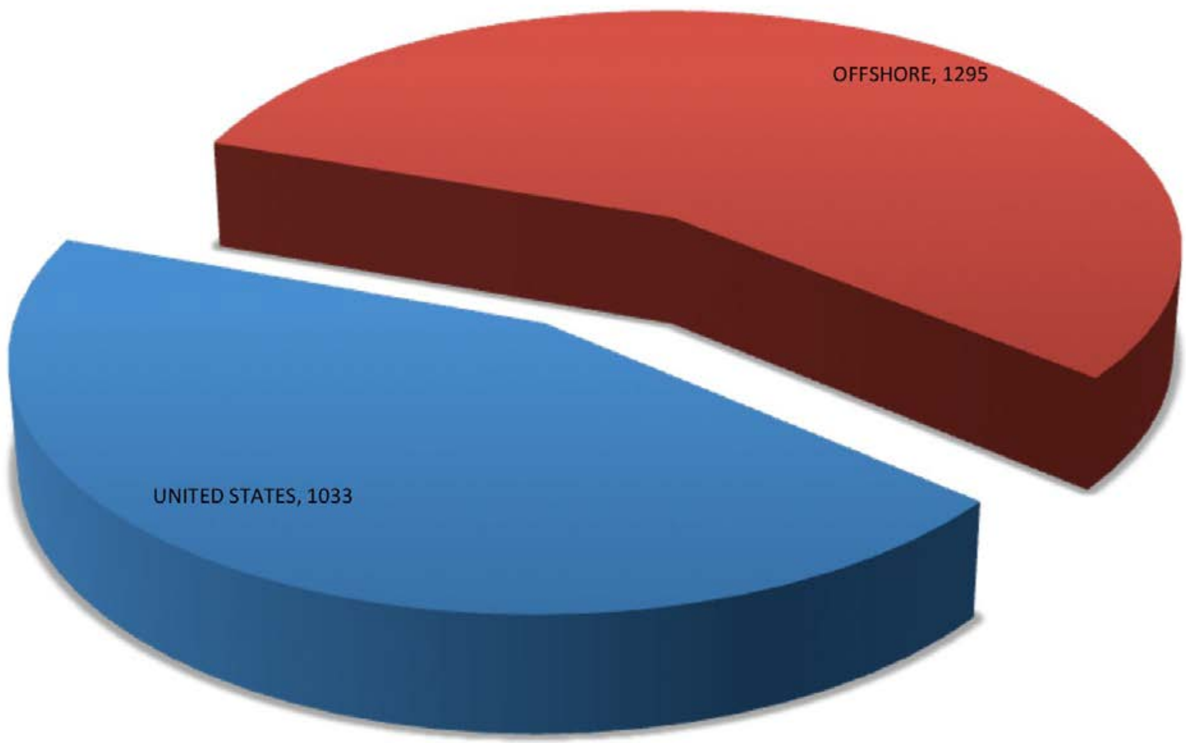


Bank of America Subsidiaries by Country



Bank of America's European Operations

Goldman Sachs Subsidiaries Domestic vs Offshore



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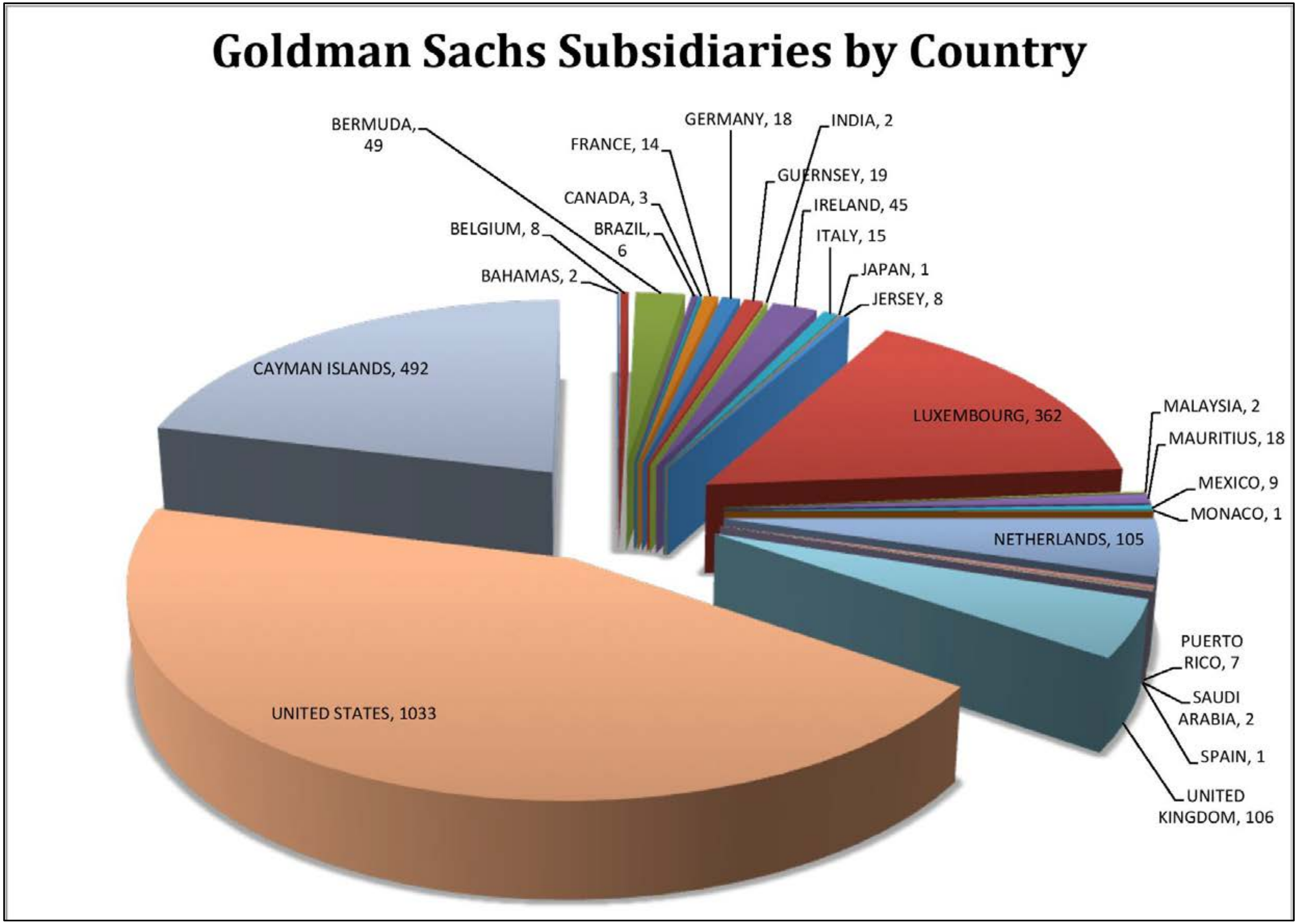

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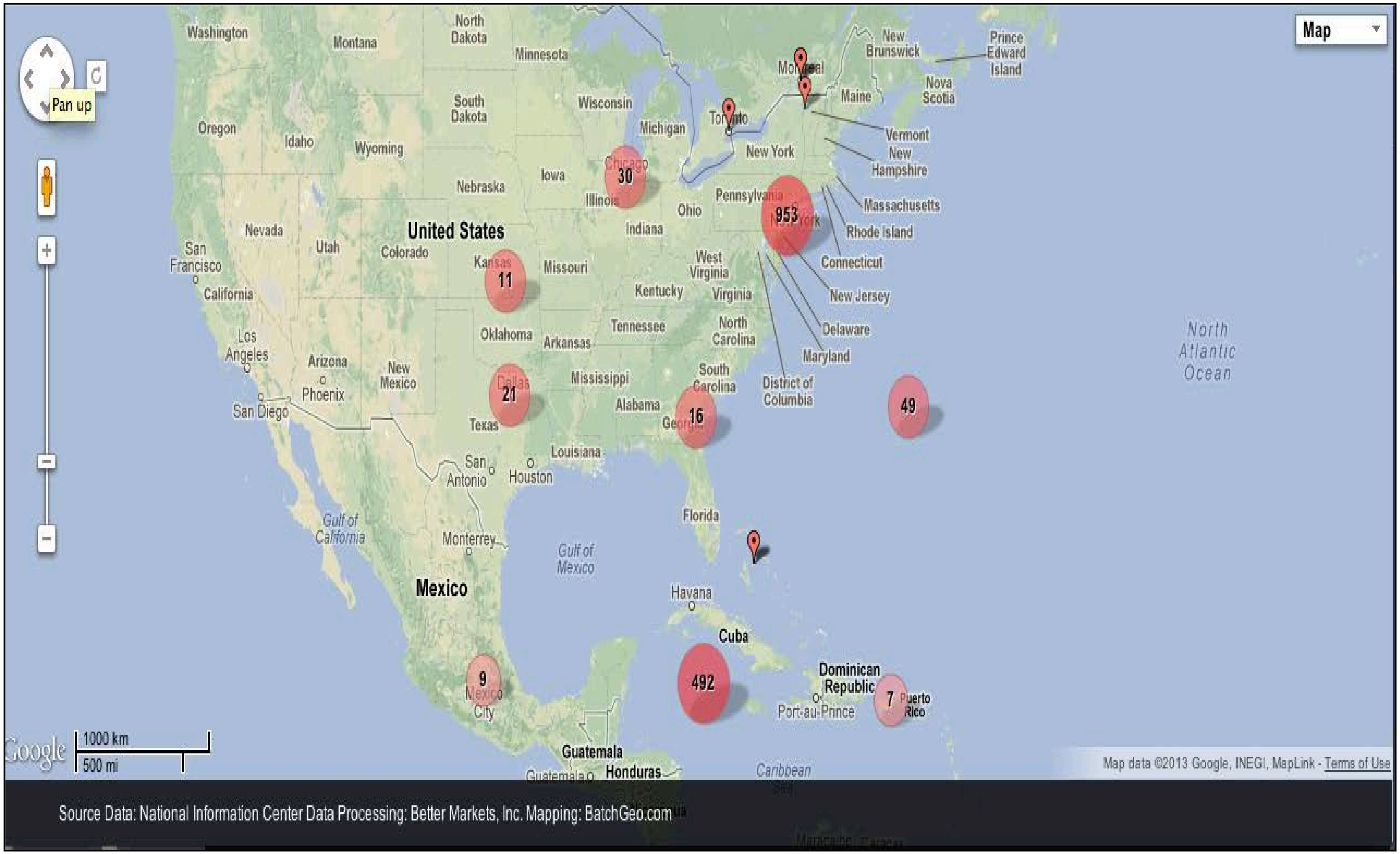
Goldman's North America Operations



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Global banks are experts at moving business activities anywhere in world

AMERICAN BANKER

U.S. Banks Spawn 10,000 Units to Cut Taxes, Avoid Regulation

Bloomberg News
JUL 23, 2012 4:06pm ET

The biggest U.S. banks created more than 10,000 subsidiaries in the past 22 years as they expanded, using legal structures to pay lower taxes and escape tighter regulation, according to a Federal Reserve study.

JPMorgan Chase & Co., the largest U.S. lender ... Group Inc., Morgan Stanley and Bank of America ... Federal Reserve Bank of New York shows. Citigroup ...

Critics including Thomas Hoenig, a Federal Deposit Insura... are too complicated to manage. The 2010 Dodd-Frank Act ... largest banks, if they get into trouble, can be wound down ... system. U.S. Senator Sherrod Brown has proposed legisla...

"When regulators are left to curtail the risk of trillion- dollar ... know that too big to fail is also too big to manage" said Brown, an Ohio Democrat and member of the Senate Banking Committee.

The 1999 repeal of the Depression-era Glass-Steagall Act was the main catalyst for the biggest banks getting bigger, the Fed study concluded. The assets of the largest lenders have since tripled to $15 trillion. Hoenig has called for reinstating Glass-Steagall, which separated investment and commercial banking, while Brown's proposal would limit asset size.

Legal Status
Morgan Stanley and Goldman Sachs, whose main business is investment banking, have thousands more subsidiaries than some of their bigger peers, who focus more on commercial and consumer lending. The two New York-based firms changed their legal status to bank holding companies during the height of the financial crisis in 2008 to access unrestricted Fed funds.

Goldman Sachs and Morgan Stanley each have about 3,000 legal units, more than double the 1,366 entities controlled by Wells Fargo & Co., according to the Fed study. San Francisco- based Wells Fargo has roughly 40 percent more assets than Goldman Sachs and 75 percent more than Morgan Stanley.

The biggest U.S. banks created more than 10,000 subsidiaries in the past 22 years as they expanded, using legal structures to pay lower taxes and escape tighter regulation, according to a Federal Reserve study.

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"All the News That's Fit to Print"

The New York Times

Late Edition

Today, partly sunny, milder, high 46. **Tonight,** turning mostly cloudy, but not as cold, low 35. **Tomorrow,** cloudy, showers arriving, high 45. Weather map appears on Page D8.

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BILLIONS IN TAXES AVOIDED BY APPLE, U.S. INQUIRY FINDS

Global Web of Subsidiaries Shields Profits – Executives to Testify in Defense

WASHINGTON — Even as Apple became the nation's most profitable technology company, it avoided billions in taxes in the United States and around the world through a web of subsidiaries so complex it spanned continents and went beyond anything most experts had ever seen, Congressional investigators disclosed on Monday.

The investigation is expected to set up a potentially explosive confrontation between a bipartisan group of lawmakers and Timothy D. Cook, Apple's chief executive, at a public hearing on Tuesday.

Congressional investigators found that some of Apple's subsidiaries had no employees and were largely run by top officials from the company's headquarters in Cupertino, Calif. But by officially locating them in places like Ireland, Apple was able to, in effect, make them stateless — exempt from taxes, record-keeping laws and the need for the subsidiaries to even file tax returns anywhere in the world.

"Apple wasn't satisfied with shifting its profits to a low-tax offshore tax haven," said Senator Carl Levin, a Michigan Democrat who is chairman of the Senate Permanent Subcommittee on Investigations that is holding the public hearing Tuesday into Apple's use of tax havens. "Apple successfully sought the holy grail of tax avoidance. It has created offshore entities holding tens of billions of dollars while claiming to be tax resident nowhere."

Thanks to what lawmakers called "gimmicks" and "schemes," Apple was able to largely sidestep taxes on tens of billions of dollars it earned outside the United States in recent years. Last year, international operations accounted for 61 percent of Apple's total revenue.

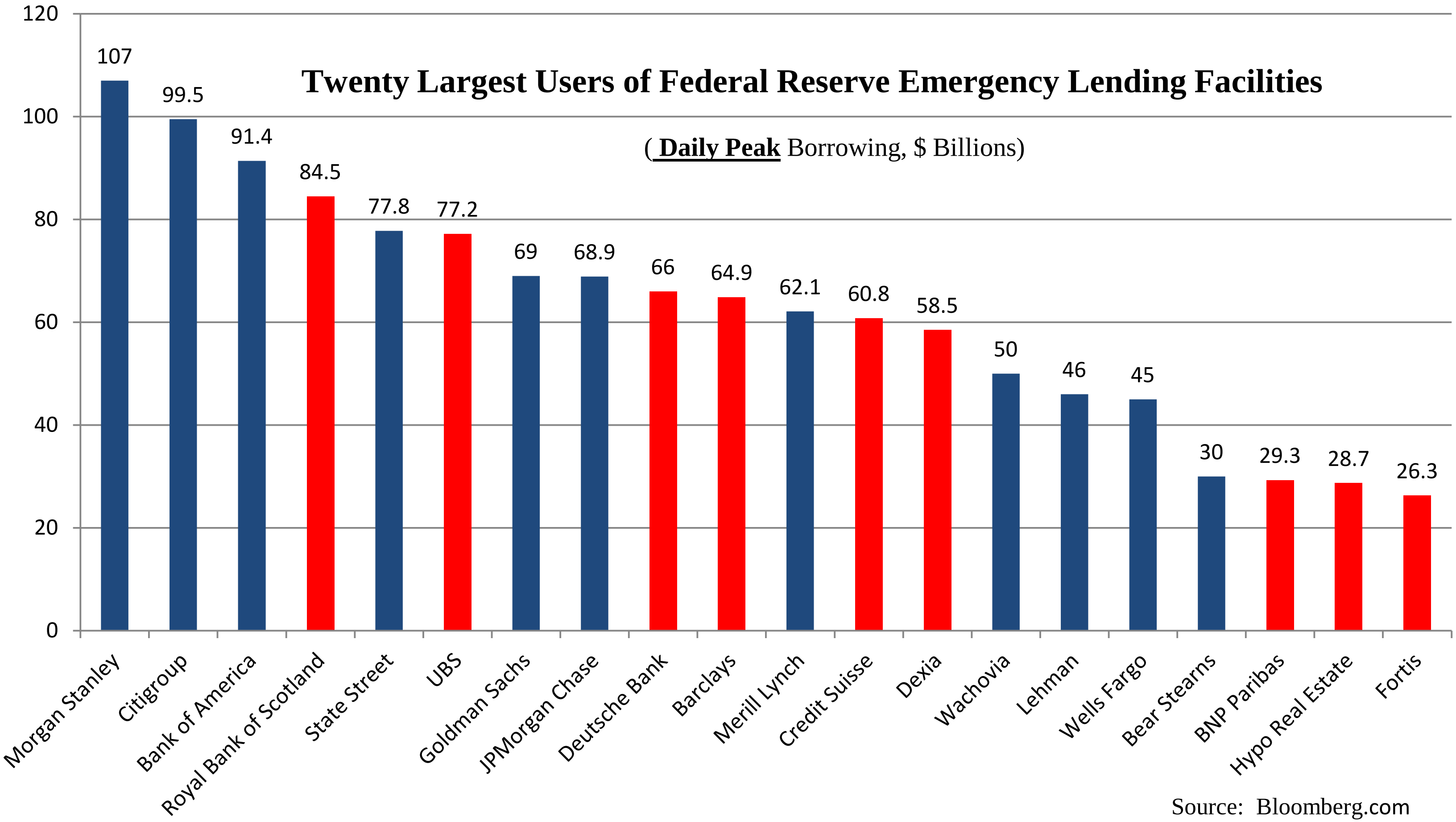
Investigators have not accused Apple of breaking any laws and the company is hardly the only American multinational to face scrutiny for using complex corporate structures and tax havens to sidestep taxes. In recent months, revelations from European authorities about the tax avoidance strategies used by Google, Starbucks and Amazon have all stirred public anger and spurred several European governments, as well as the Organization for Economic Cooperation and Development, a Paris-based research organization for the world's richest countries, to discuss measures to close the loopholes.

Still, the findings about Apple were remarkable both for the enormous amount of money involved and the audaciousness of the company's assertion that its subsidiaries are beyond the reach of any taxing authority.

"There is a technical term economists like to use for behavior like this," said Edward Kleinbard, a law professor at the University of Southern California in Los Angeles and a former director at the Congressional Joint Committee on Taxation. "Unbelievable chutzpah."

EU banks required U.S. bailouts

(blue U.S., red European)



Source: Bloomberg.com

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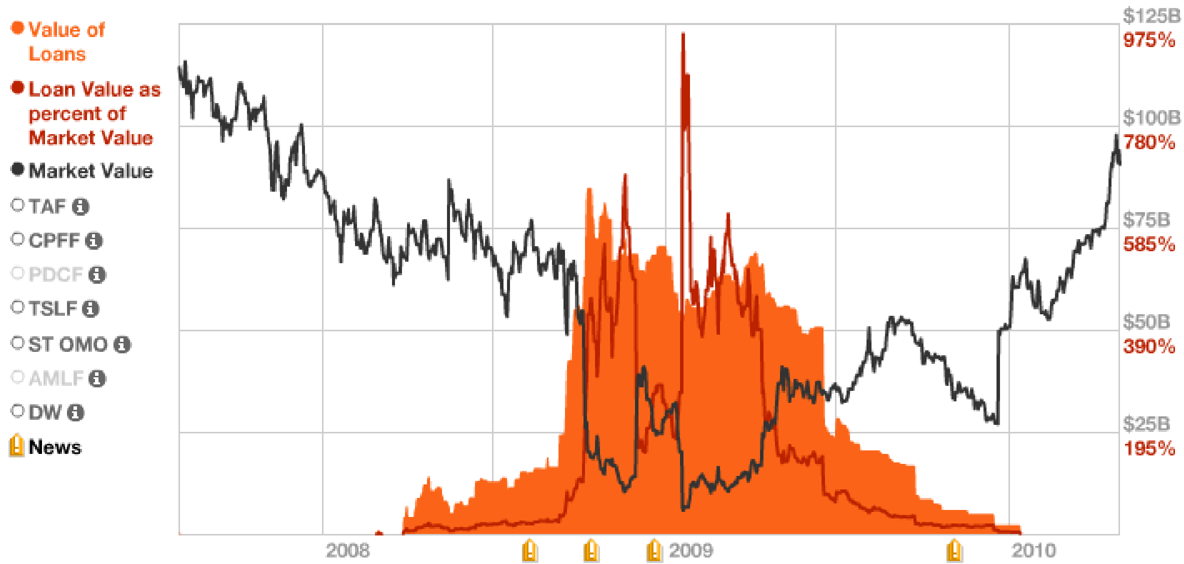
Fed lending to Royal Bank of Scotland (RBS)

BACK | Royal Bank of Scotland Group Plc* Details | SHARE THIS



Royal Bank of Scotland Group Plc

$84.5B
Peak Amount of Debt on 10/10/2008

661
Number of Days In Debt to the Fed

$21.4B
Average Daily Balance From 8/1/2007 to 4/30/2010

$74B
Capital Raised From Home Governments

*More Information

Royal Bank of Scotland Group Plc, whose 45.5 billion-pound ($74 billion) emergency capital injection from U.K. taxpayers was the world's biggest announced bank bailout, also got more secret loans from the U.S. Federal Reserve than any other foreign bank. On Oct. 10, 2008, as the bank's stock price plunged 21 percent in a single day, Edinburgh-based RBS was borrowing $62.5 billion from the Fed through its U.S. broker-dealer, $11.5 billion through its New York branch, $10 billion through its RBS Citizens NA bank and $500 million through Citizens Bank of Pennsylvania. The Fed aid exceeded even the 36.6 billion pounds of emergency liquidity the Bank of England supplied in secret to RBS in October 2008. The BOE disclosed the aid package in November 2009, more than a year before the Fed aid was revealed.

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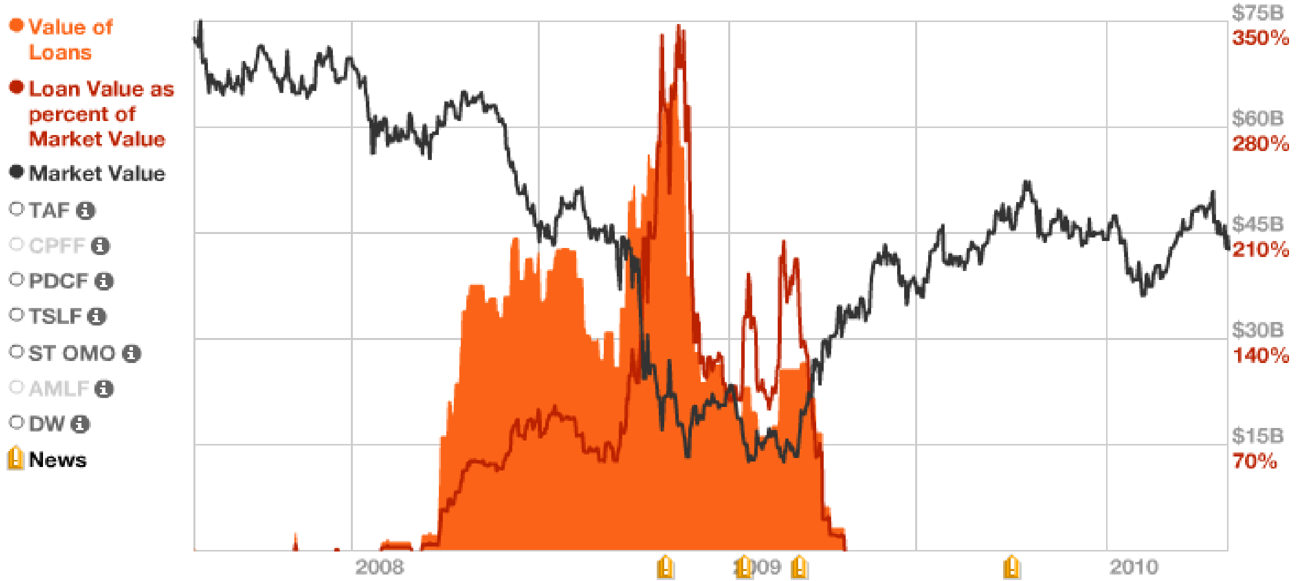
Fed lending to Deutsche Bank

BACK Deutsche Bank AG* Details SHARE THIS



Deutsche Bank AG

$66B
Peak Amount of Debt on 11/6/2008

439
Number of Days In Debt to the Fed

$12.5B
Average Daily Balance
From 8/1/2007 to 4/30/2010

Deutsche Bank AG, Germany's biggest bank, navigated the financial crisis without capital injections from the German government. The Frankfurt-based bank, which in 2008 reported its first annual loss since World War II, wasn't so shy about getting liquidity in secret from the U.S. Federal Reserve. The lender tapped the Fed for $66 billion on Nov. 6, 2008 -- $28.2 billion from the Term Securities Lending Facility, $21.8 billion from single-tranche open market operations and $16 billion from the Term Auction Facility. John Gallagher, a Deutsche Bank spokesman, declined to say whether the bank took emergency loans during the crisis from other central banks, such as Germany's Bundesbank.

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Fed lending to Barclays

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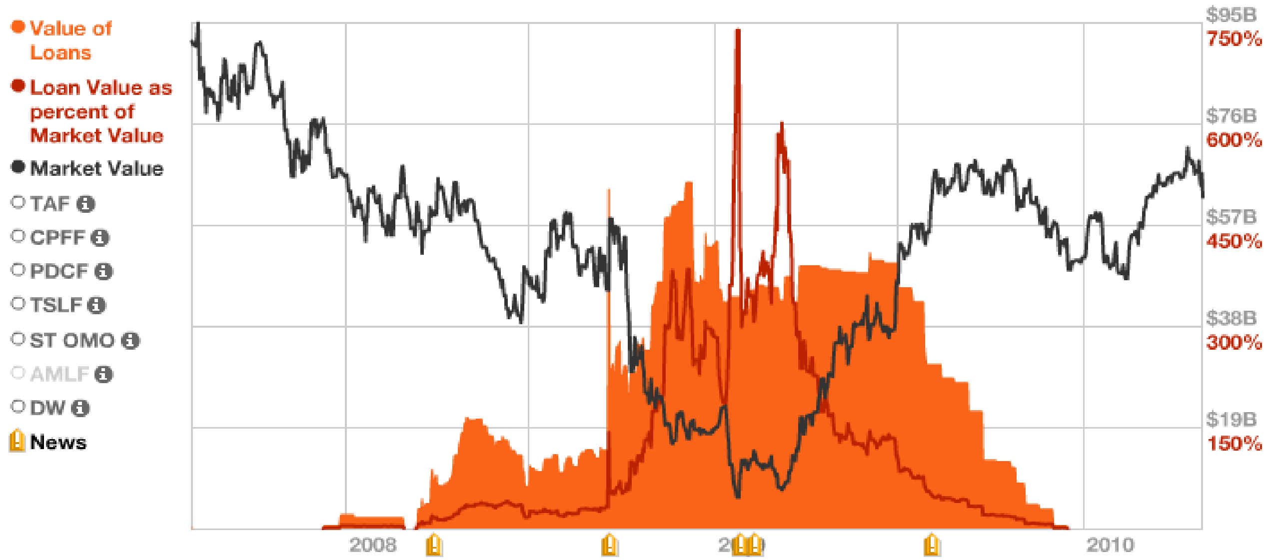

Barclays Plc

$64.9B
Peak Amount of Debt on 12/4/2008

724
Number of Days In Debt to the Fed

$19.1B
Average Daily Balance From 8/1/2007 to 4/30/2010

*More Information

"There was not a direct subsidy to Barclays" from governments during the financial crisis, Chief Executive Officer Robert Diamond told a U.K. House of Commons hearing in London on June 8, 2011. While the company avoided taking government capital, it was more accepting of emergency cash from the U.S. Federal Reserve. Data show that the London-based bank borrowed $64.9 billion from the Fed on Dec. 4, 2008, more than two months after it agreed to buy the North American unit of Lehman Brothers Holdings Inc. in a bankruptcy auction. The London-based bank was still borrowing more than $40 billion from the Fed as late as June 2009, nine months after the Lehman deal closed. Sarah MacDonald, a Barclays spokeswoman, declined to say whether the bank also got liquidity from the Bank of England.

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Fed lending to Dexia SA

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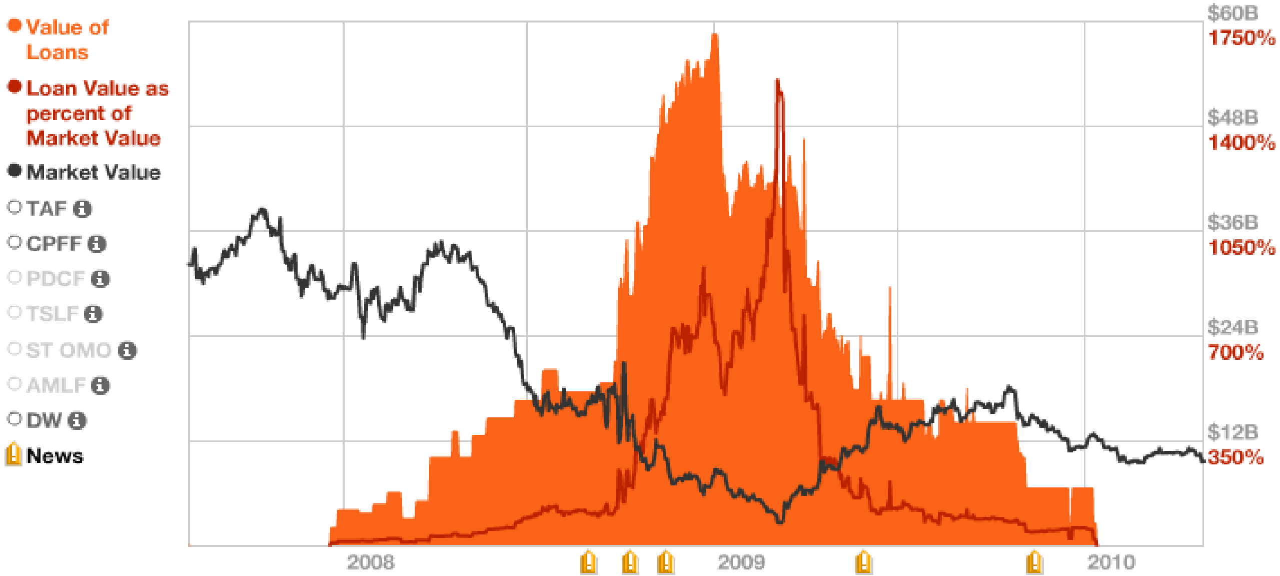


Dexia SA

$58.5B
Peak Amount of Debt on 12/31/2008

756
Number of Days In Debt to the Fed

$15.5B
Average Daily Balance From 8/1/2007 to 4/30/2010

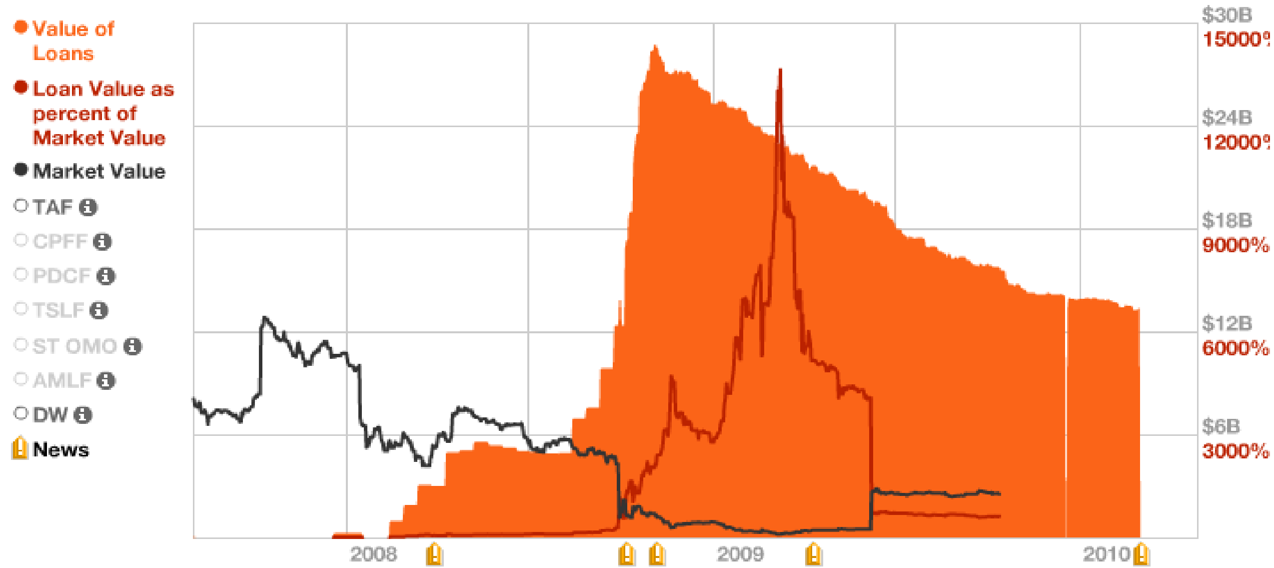
$7.3B
Capital Raised From Home Governments

*More Information

The biggest U.S. banks avoided the discount window, the Federal Reserve's 97-year-old last-resort lending facility, partly out of concern that tapping it might brand them as weak. Dexia SA, a lender to local governments in Belgium, showed no such reservation. The bank, based in Brussels and Paris, was the discount window's biggest borrower during the crisis, tapping it for $37 billion in December 2008. Dexia simultaneously borrowed $21.5 billion from temporary Fed programs that were primary sources of emergency funding for U.S.-based Citigroup Inc., Bank of America Corp. and JPMorgan Chase & Co. In all, Dexia owed about 120 billion euros ($168 billion) to central banks at the end of 2008. As of June 30, 2011, it still had 34 billion euros of central-bank funding.

Fed lending to Hypo Real Estate Holding

BACK | Hypo Real Estate Holding AG* Details | SHARE THIS



Hypo Real Estate Holding AG

$28.7B
Peak Amount of Debt on 11/4/2008

772
Number of Days In Debt to the Fed

$11.1B
Average Daily Balance From 8/1/2007 to 4/30/2010

$14B
Capital Raised From Home Governments

*More Information

Hypo Real Estate Holding AG, a German commercial-property lender with 1,366 employees, borrowed as much as $28.7 billion in November 2008 from the U.S. Federal Reserve through the New York branch of its Depfa Bank Plc unit. That's about $21 million per employee. It borrowed almost one-third as much as Citigroup Inc., which has 190 times as many employees. The Fed aid came in addition to 142 billion euros ($206 billion) of emergency credit lines and debt guarantees from German authorities. Hypo, which invested in mortgage-backed securities in the years before the financial crisis, said in a 2009 report that it lost access to short-term funding after Lehman Brothers Holdings Inc.'s bankruptcy. Hypo didn't disclose any Fed borrowings until the loans became public in 2011.

But even that's not all: Costs of Foreign Regulator Failures have been staggering

- **In addition** to (1) the AIG-like cross border bank/dealer disasters that have come back to cost the U.S. **and** (2) the trillions in Fed bailouts,
  - There was **also** massive, widespread and very costly failure of foreign financial regulation even of their own banks and dealers – **never mentioned**
- The result was many EU banks were nationalized or otherwise bailed out by their own governments during the crisis

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EU bank regulation totally failed
Foreign depositors, taxpayers and treasuries

EU Banks rescued by their governments during the crisis		
U.K.	Germany	
Northern Rock *	West LB	
Royal Bank of Scotland *	Landesbank Baden Wurttemberg	
Lloyds Banking Group	IKB	
Bradford and Bingley *	Hypo Real Estate *	
HBOS	Nord LB	
	Commerzbank AG	
Belgium		
	Netherlands	
Dexia *		
KBC Group	ING	
Fortis	SNS REAAL	
France	Sweden	
Caisse d'Espargne/Bansque Populaire	Carnegie Bank *	
Ireland	Switzerland	
Anglo Irish Bank *	UBS	
Source: Centre for European Policy Studies (2010), Bank State Aid in the Financial Crisis, October		
*government majority ownership		

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the guardian

Banks to get £46bn injection from taxpayers to stay afloat

Fears that bill may rise to £75bn

Jill Treanor
Larry Elliott
Nicholas Watt

The cost to the taxpayer of bailing out Britain's weakest banks will escalate today when the government announces an injection of more than £40bn into the country's struggling high street lenders.

In a sign of the deepening financial crisis, the government is standing by to take majority stakes in Royal Bank of Scotland and HBOS, owner of the country's biggest mortgage lender Halifax, and smaller stakes in Barclays and Lloyds TSB.

Top executives from the big banks were in discussions with the Financial Services Authority, Treasury and Bank of England last night about how they would participate in the bail-out, originally intended to allow for £25bn to be injected into banks immediately, with a further £25bn later.

But RBS and HBOS are likely to use £25bn alone, and there were estimates last night that the total bill could rise to £75bn. The

Sir Fred Goodwin could be ousted as chief executive of RBS, in which the government is ready to take a majority stake

three-part package also includes £200bn of fresh funds for interbank lending and a tion of making a statement before markets open at 8am. Sources said yesterday that the government would assume a larger than expected control of banks after the dramatic fall in their share prices. They cite the example of RBS, which is now worth £12bn but needs at least £20bn to help it recapitalise. "On these figures we are suddenly the majority shareholder," one government source said.

HBOS, which had a market value of £6.5bn on Friday, could need to raise up to £12bn and Lloyds TSB £5bn, with Barclays needing up to £9bn. The terms of the fund-raisings are complex. Some of the shares may be ordinary shares, which give voting rights, and some could be preference shares, which do not. HBOS, for instance, could raise around £9bn in ordinary shares and a further £3bn in preference shares, while RBS could raise £15bn in ordinary shares and £5bn in preference shares.

The rise in the size of the capital injections being demanded by the FSA over the weekend surprised some banks. But it is thought that the regulator is determined to draw a line under concerns about whether the capital cushions held by the banks are enough to prevent them collapsing.

The government insisted it was not taking control of banks in the long term. "This is not nationalisation. This is the banks coming to us requesting capital," the government source said. "If we are going to take a significant share of these banks, we have got to protect the interests of the taxpayer. But we have no intention

Europe follows Brown plan for survival

Ian Traynor Paris
Larry Elliott Washington

Germany, France, Italy and a further 12 European countries last night unveiled a "comprehensive" plan for salvaging their banking systems from potential ruin, as panicked European leaders met to try to ward off more financial meltdown before the markets reopen today.

An emergency summit in Paris of the 15 countries using the euro single currency was encouraged by Gordon Brown to adopt the rescue plan he launched last week as the template for an increasingly global approach to the financial crisis.

Yesterday's summit in Paris followed a frenetic weekend of activity in Washington, in which the IMF, the World Bank, the G7 club of rich western nations and the broader G20 group, all called for urgent and coordinated action.

Dominique Strauss-Kahn, managing director of the IMF, warned that the global financial system was "on the brink of systemic meltdown".

The IMF's main policy committee issued a statement saying that it "recognises that the depth and systemic nature

FINANCIAL TIMES

Tuesday January 20 2009 | £1.80

Good morning, Mr President

Inauguration day: the world wakes up to Obama's Washington

Analysis Page 11, Editorial Comment Page 12, Plus Special report

Crunch time
Nationalise the banks now, says Christopher Wood
Page 36

Newspaper of the year | World Business Newspaper

News Briefing

C4 chief seeks a 'best for Britain' solution

Diageo reviews plans

Art market crunch

S&P cuts Spain's rating

Russian lawyer killed

Gaza rebuilding row

Indian retail revolution

Rouble devaluation off

RBS plunges despite lifeline

Fears of state takeover after 67% share fall

Treasury unwilling to take on balance sheet

Prime minister Gordon Brown and chancellor Alistair Darling announce the second rescue plan for the banking industry

RBS suffers on the markets

£28bn RBS set for biggest loss in UK corporate history

67% Slide in the bank's shares to a 23-year low of 11.6p

PM's rebuke

'Today's write-off is for irresponsible losses in US subprime markets that partly derive from the acquisition of ABN'

Stephen Hester

'RBS leveraged itself too much in the good times – the ABN acquisition was an element in that...'

RBS chief executive

Bank of England

Treasury gives go-ahead to 'print money'

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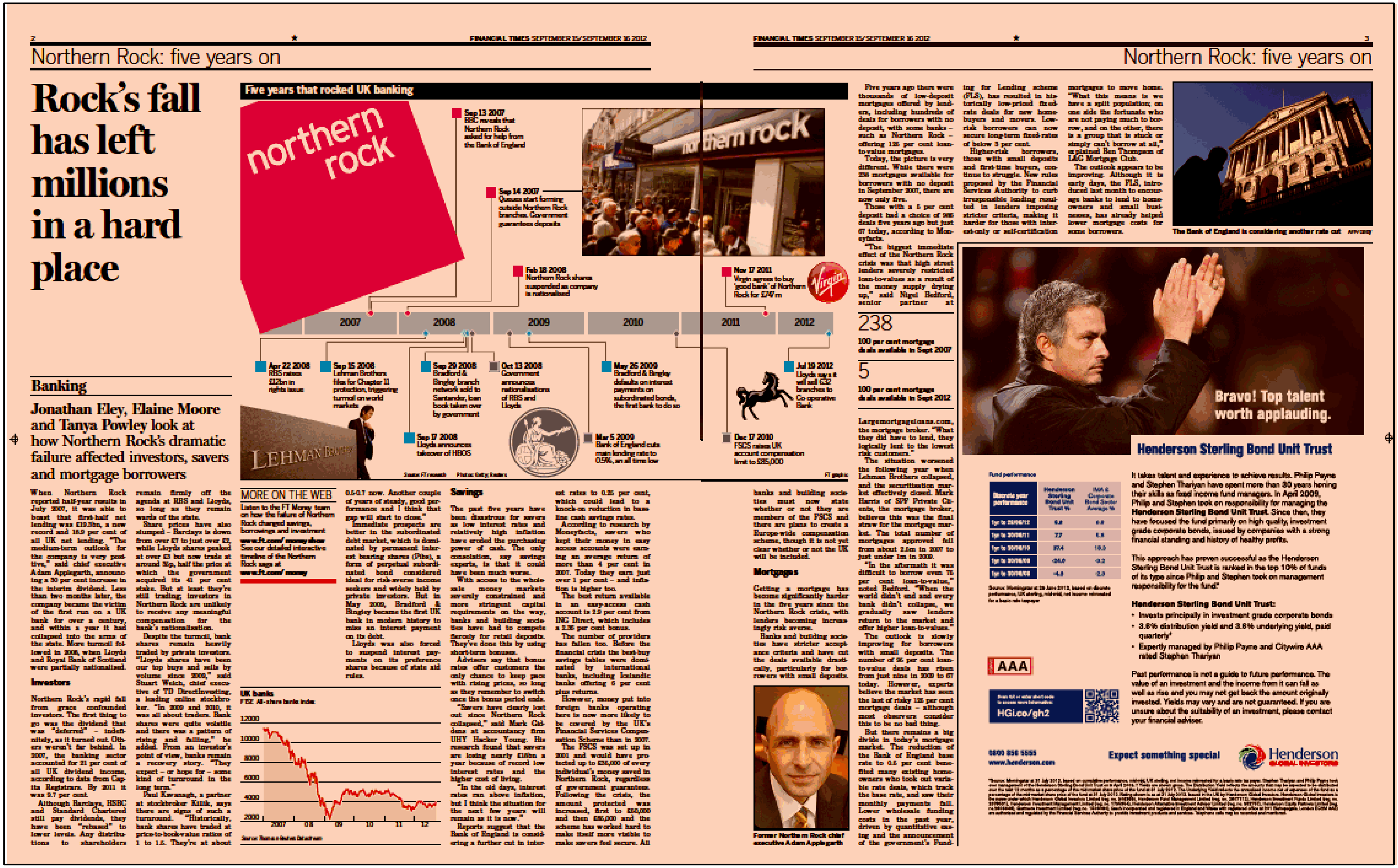

Foreign financial regulators failed miserably to protect their own taxpayers, depositors, treasuries

<u>The costs of those failures have been staggering, exceeding GDP</u>

- Because these costs are ongoing, it's impossible to calculate how much these failures will ultimately cost the people of Europe
  - But we know the peak government <u>bailout costs in just one country</u>: the nationalized cost in the UK alone to 2011 was more than $1.15 trillion pounds

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Trillions More in Costs to European Citizens

- Because these banks/dealers were nationalized, their total liabilities have been assumed by the public
  - **Just one** of the five UK nationalized dealer banks' RBS, had total assets (& therefore total liabilities) in 2008 of 2.2 trillion pounds
    - The UK's entire GDP in 2008 was just 1.4 trillion pounds
      - The country's taxpayers have had to assume private liabilities well above their entire GDP

Foreign financial regulation has failed shamefully in other areas as well

- There has also been massive, wide-spread, multi-year LIBOR rate-rigging throughout the EU by the large dealer derivatives desks
- Plus, there has been massive, wide-spread, multi-year criminal money laundering by Standard Chartered, HSBC and other global bank/dealers, which was also undetected by European regulators
- And, ongoing: ISDAfix markets, FX markets & who knows what other crimes & manipulation going on

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Traders Said to Rig Currency Rates to Profit Off Clients

June 11, 2013

By Liam Vaughan, Gavin Finch & Ambereen Choudhury - Jun 11, 2013 7:00 PM ET

58 COMMENTS QUEUE

Traders at some of the world's biggest banks manipulated benchmark foreign-exchange rates used to set the value of trillions of dollars of investments, according to five dealers with knowledge of the practice.

> Traders at some of the world's biggest banks manipulated benchmark foreign-exchange rates used to set the value of trillions of dollars of investments, according to five dealers with knowledge of the practice.

Employees have been front-runn[...] through trades before and during the [...] the current and former traders, who req[...] Dealers colluded with counterparts to b[...] people, who worked in the industry for a[...]

Enlarge image

A boy adjusts number tiles displaying the exchange rate on a currency exchange board at night in Bishkek, Kyrgyzstan. Photographer: Noriko Hayashi/Bloomberg

June 12 (Bloomberg) -- Bloomberg News' Liam Vaughn explains the process of currency trading and how traders are said to have rigged FX rates as Britain's market supervisor considers opening a probe into the practice. He speaks on Bloomberg Television's "On The Move."

The be[...] market[...] the value of funds and derivatives, the two traders said. The Financial Conduct Authority, Britain's markets supervisor, is considering opening a probe into potential manipulation of the rates, according to a person briefed on the matter.

"The FX market is like the Wild West," said James McGeehan, who spent 12 years at banks before co-founding Framingham, Massachusetts-based FX Transparency LLC, which advises companies on foreign-exchange trading, in 2009. "It's buyer beware."

The $4.7-trillion-a-day currency market, the biggest in the financial system, is one of the least regulated. The inherent conflict banks face between executing client orders and profiting from their own trades is exacerbated because most currency trading takes place away from exchanges.

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Why would the U.S. CFTC outsource the protection of U.S. taxpayers to anyone with such a poor record?

- In addition, foreign governments have a conflict of interest in enforcing effective rules on foreign banks: less or ineffective regulation will attract business & jobs to their country, with limited downside b/c U.S. pays the bill to bailout the global financial system
- That is why the CFTC was explicitly given the statutory mandate & duty to regulate these markets & market participants directly
  - To protect the U.S. financial system, U.S. economy & U.S. taxpayers
  - **If** substituted compliance is allowed, it must be robust in form, substance, enforcement & over time

<u>**No More Delays**: already 2 ½ years of CFTC consideration</u>

- First CFTC meeting on cross border Jan. 2011
  - A year & a half of meetings, consideration, deliberation AND endless industry input
- Initial guidance proposed June 2012
  - Followed by yet more meetings, input, consideration, deliberation
- Additional guidance Dec. 2012, setting deadline of July 12, 2013, 7 months later
- After yet MORE input, latest draft circulated on May 16, 2 months before the deadline of July 12

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The American People have been waiting years already

- 3 years since the Dodd Frank financial reform law was passed
  - July 12, 2013 cross border deadline
  - July 21, 2010 Obama signed DFA
- 5+ years since the financial crisis
  - March 17, 2008 Bear Stearns failed
  - September 5, 2008 Fannie/Freddie receivership
  - September 15, 2008 Lehman Brothers failed
    - 2013 – this year – 5 year anniversary

CFTC Must Finalize By July 12

- After more than 2 ½ years, it is time to finalize
- 4+ weeks left to work out any differences
  - Plenty of time
- SEC's recently proposed rule is inapplicable & weak
  - No basis for delay
- Objections based on speculation by foreign governments/industry no basis for delay
  - Will take years for them to put rules in place
  - Conflicts, **if any**, can be worked out later
- The time to protect the American people is NOW
  - Do not wait & do not start with lower standards
    - Can always change to address concerns; simply won't be able to increase

Coming to a **U.S.** City Near You? **Not if** the CFTC Gets Cross Border Right

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Don’t Let This Happen <u>Again</u>